IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 5TH JANUARY 2007 / 15TH PAUSHA 1928

WP(C).No. 32789 of 2006(C)

PETITIONER:

HYDRU, S/O. MOHAMMED,
AGED 48 YEARS, 267 PUNAPALA, MAMBAD,
MALAPPURAM DISTRICT.

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS:

---

1. THE DISTRICT COLLECTOR,
MALAPPURAM DISTRICT, MALAPPURAM.

2. THE MAMBAD GRAMA PANCHAYAT,
MALAPPURAM DISTRICT, REPRESENTED BY ITS SECRETARY.

ADDL.R3 THE COMMITTEE,
MAMBAD GRAMA PANCHAYAT
REPRESENTED BY ITS PRESIDENT IS
IMPLEADED VIDE ORDER DATED 18.12.2006

(ADDL.R3 IS IMPLEADED AS PER ORDER DATED 18.12.2006)

BY ADV. SRI.SUNNY MATHEW
BY G.P. SRI.MATHEW G.VADAKKAL.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C.KURIAKOSE, J.

W.P.(C)NO. 32789 of 2006

Dated this the 5th day of January, 2007

JUDGMENT

A permanent resident of Mampad Grama Panchayat is the petitioner. The River Management Committee headed by the District Collector called for proposed works from different Grama Panchayat under the River Management Fund. Accordingly, all the Grama Panchayats including Mampad Grama Panchayat submitted several proposals of work out of which five proposals of Mampad Panchayat were accorded sanction and the same was submitted before the Governemnt and administrative sanction for execution of the work was issued by the District Collector as per Ext.P1.

2. The grievance of the petitioner is that all the Panchayats tendered the work and all most all the works in the other Panchayat have been completed. But in the Mampad Grama Panchayat even though tender was published as directed by the District Collector in Ext.P1 in a leading news paper, the

Panchayat did not finalise the tender. Petitioner has come to understand that the Panchayat has made 29 new proposals saying that the earlier works sanctioned need not be continued with. The petitioner contends that the Grama Panchayat has no power or jurisdiction to do so. The Panchayat is trying to complete the work sanctioned as per Ext.P1 itself. It is pointed out that the Panchayat has no financial commitment in the matter and the entire fund is to be provided by the River Management Fund. The petitioner prays for a writ of mandamus directing the 2nd respondent to implement the work as per Ext.P1 proceedings of the District Collector, Malappuram.

2. The Committee of the Mambad Grama Panchayat was impleaded as additional 3rd respondent in this writ petition.

3. The Secretary of the Panchayat has stated in the counter affidavit that he was only abiding by the directions of the Committee. Action has been initiated by the District Collector against the Secretary for ingoring Ext.P1. Secretary is ready to implement Ext.P1. The learned Government Pleader would place before me a written instructions imparted him by

the District Collector. It is stated therein as follows:

" As per G.O. (RT) No.5019/05/RD dated 25.8.2005, Government have accorded Administrative Sanction for 5 works in Mampad Grama Panchayat under River Management Fund. As per the order No.46175/04/B8 dated 12.12.2005, District Collector had given Execution Sanction for the above works. But, the Secretary, Mampad Grama Panchayat vide his letter dated 10.11.2006 submitted proposal concelling the above 5 works and suggesting 29 other works in place of above works. Since the Panchayat has no authority to cancel a project sanction by the Government, explanation was sought for from the Secretary, Mampad Grama Panchayat regarding the circumstances which necessitated such a cancelation. The Secretary, Mampad Grama Panchayat, in his reply dated 25.11.2006 has informed that, action were initiated from that end to execute the above works and Advertisement inviting tenders were also published in the Mangalam daily in this regard. But the Panchayat board in its meeting held on 9.11.2006 has decided to cancel all these 5 project and recommended other 29 proposal in place of the work. Considering this a reply vide this office letter P4/46175/04 dated 19.12.2006 is given to the Secretary, Mampad Grama Panchayat stating that, they could not cancel a Government approved project without prior sanction of Government. "

Heard both sides. I am of the view that the District Collector is right in contending that the Panchayat was not justified in not implementing Ext.P1 proceedings of the District Collector since the funds were being provided by the River Management Fund. The writ petition will stand allowed. There will be a direction to the 2nd respondent to implement the fund as per Ext.P1 proceedings of the District Collector,

Malappuram as early as possible. Since the stand of the Secretary that he is not the person responsible for not honouring Ext.P1 is fairly convincing, the District Collector will drop action, if any, taken against the Secretary.

PIUS C.KURIAKOSE
Judge

dpk